

JOSEPH JAMAUL JOHNSON

I. D. # P77735 A2-124

PRO SE LITIGANT

P. O. BOX 5101

DELANO, CA 93216

FILED

SEP 03 2019

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTH DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOSEPH JAMAUL JOHNSON,

NO. 19-CV-02345-SK

PLAINTIFF,

v.

PLAINTIFF'S FIRST

A. MEYER, et al.,

AMENDED COMPLAINT

DEFENDANTS.

TO THE UNITED STATES DISTRICT COURT, FOR THE NORTHERN
DISTRICT OF CALIFORNIA:

PLAINTIFF SUBMITS HIS FIRST AMENDED
COMPLAINT FOR REVIEW AND JUDGMENT

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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4 JOSEPH JAMAIL JOHNSON,
5 PLAINTIFF,

6 v.

7 A. MEYER, et al.,
8 DEFENDANTS.

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11 TO THE UNITED STATES DISTRICT COURT, NORTHERN DISTRICT
12 OF CALIFORNIA:

13
14 PLAINTIFF, A PRO SE LITIGANT, BRINGS THIS CIVIL
15 ACTION AGAINST SEVERAL CORRECTIONAL OFFICERS UNDER
16 § 1983. PLAINTIFF ORIGINALLY INITIATED SUIT AGAINST
17 DEFENDANTS IN APRIL 2017, ASSERTING CLAIMS OF (1) FAILURE
18 TO ACT, (2) DELIBERATE INDIFFERENCE, AND (3) RETALIATION
19 (ECF no. 1). ON JULY 1, 2019, THE COURT DISMISSED THE
20 ACTION WITH LEAVE TO AMEND (ECF no. 8). AN ORDER
21 GRANTING MOTION TO EXTEND TIME WAS FILED ON AUGUST 5,
22 2019 (ECF no. 10). HERE, PLAINTIFF SUBMITS HIS FIRST
23 AMENDED COMPLAINT.

24
25 JURISDICTION

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27 THIS COURT HOLDS ORIGINAL JURISDICTION OF THE ISSUES
28 RAISED HEREIN UNDER §§ 1331 AND 1343 OF THE UNITED

1 STATE CODE, TITLE 28.

2
3 CLAIM EXHAUSTION

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5 ALL CLAIMS HAVE BEEN EXHAUSTED TO THE HIGHEST
6 LEVEL OF REVIEW.

7
8 PARTIES

9
10 PLAINTIFF:

11 JOSEPH JAMAUL JOHNSON, PRO SE LITIGANT

12
13 DEFENDANTS:

14 SHAWN HATON, CORRECTIONAL WARDEN (SVSP)
15 VICTOR SOLIS, CORRECTIONAL ASSOCIATE WARDEN (SVSP)
16 JASON MARTINEZ, CORRECTIONAL COUNSELOR (SVSP)
17 J. CERMEÑO, CORRECTIONAL SERGEANT (SVSP)
18 A. QYARZARAL, CORRECTIONAL SERGEANT (SVSP)
19 M. PEREZ, CORRECTIONAL OFFICER (SVSP)
20 M. MATIAS, CORRECTIONAL OFFICER (SVSP)
21 R. SAGADO, CORRECTIONAL OFFICER (SVSP)
22 JOHN DOE NO. 1, CORRECTIONAL OFFICER (SVSP)
23 JOHN DOE NO. 2, CORRECTIONAL OFFICER (SVSP)
24 JOHN DOE NO. 3, CORRECTIONAL OFFICER (SVSP)
25 K. BROWN, CHIEF EXECUTIVE OFFICER OF APPEAL (KVSP)
26 S. GATES, CHIEF OFFICER OF APPEAL (KVSP)

27 ALL DEFENDANTS ARE BEING SUED IN BOTH THEIR INDIVIDUAL
28 CAPACITIES AS EMPLOYEES FOR CDCR.

STATEMENT OF FACTS

ON OR ABOUT JULY 5, 2018, PLAINTIFF, IN INMATE OF THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR), WAS TRANSFERRED TO SALINAS VALLEY STATE PRISON (SVSP) FOR PLACEMENT IN THE SHORT TERM RESTRICTED HOUSING (STRH) UNIT. ON JULY 12, 2019, PLAINTIFF ATTENDED A CLASSIFICATION HEARING FOR CUSTODY REVIEW AND PROGRAM PLACEMENT.

DURING THIS CUSTODY PROCEEDING, THE COMMITTEE MEMBERS REVIEWED PLAINTIFF'S CASE FACTORS AND FOUND NO REASON TO RETAIN HIM IN ADMINISTRATIVE SEGREGATION (AD-SEG). PLAINTIFF WAS NOTED AS NOT POSING A GREATER THAN NORMAL RISK OF PROGRAMMING NEGATIVELY IN THE INMATE GENERAL POPULATION (G.P.) IF RELEASED FROM AD-SEG. THE COMMITTEE MEMBERS ALSO REPORTED THAT PLAINTIFF HAD NO DOCUMENTED ENEMY SITUATION AT SVSP, FACILITY C.

THIS COMMITTEE HEARING WAS HELD BY DEFENDANT'S SHAWN HATTON (SVSP - WARDEN), VICTOR SOLIS (SVSP - ASSOCIATE WARDEN), AND JASON MARTINEZ (SVSP - CORRECTIONAL COUNSELOR). PLAINTIFF'S CASE WAS REFERRED FOR 180 - G.P. TRANSFER TO SVSP, AND HE WAS SUBSEQUENTLY RELEASED FROM AD-SEG RETENTION FOR PLACEMENT ON FACILITY C. SEE CDCR 1286 DATED 7.12.18.

WHILE PENDING RELEASE FROM AD-SEG, PLAINTIFF WAS APPROACHED, CELL FRONT, BY DEFENDANT'S A. QYARZABAL (CORRECTIONAL SERGEANT) AND J. CERMENO

(CORRECTIONAL SERGEANT), AND INFORMED THAT HE IN FACT DID HAVE AN ENEMY ON FACILITY C. THIS INFORMATION WAS PROVIDED BY DEFENDANT QVARZABAL, WHO SPECIFICALLY QUESTIONED THE COMMITTEE'S DECISION TO RELEASE PLAINTIFF TO THIS FACILITY WHILE THERE EXISTED A DOCUMENTED ENEMY SITUATION.

ON JULY 15, 2018, PLAINTIFF WAS RELEASED TO FACILITY C AND PLACED ON ORIENTATION STATUS. THIS PLACEMENT IS REQUIRED THROUGHOUT CCCR FOR NEW ARRIVALS, WHICH TEMPORARILY RESTRICTS INMATES TO THEIR CELL UNITS FOR [10 TO 14] DAYS PENDING PROGRAM ASSESSMENT. UPON ANY MOVEMENT WHILE ON ORIENTATION, ALL INMATES MUST BE ESCORTED BY CORRECTIONAL STAFF WHENEVER OUTSIDE OF THEIR ASSIGNED HOUSING. NO RECREATION PRIVILEGES ARE ALLOWED WHILE ON THIS STATUS.

ON JULY 16, 2018, DURING YARD RELEASE, PLAINTIFF WAS APPROACHED BY DEFENDANT JOHN DOE #1 (CORRECTIONAL OFFICER), CELL FRONT, AND INFORMED THAT HE HAD TO GO TO YARD. DEFENDANT JOHN DOE #2 (CORRECTIONAL OFFICER), AS THE BUILDING'S TOWER OFFICER, OPENED PLAINTIFF'S CELL DOOR, WHICH FURTHER INDICATED THE NEED TO COMPLY WITH THE OFFICER'S ORDER.

WHILE ON THE RECREATION YARD, PLAINTIFF WAS EVENTUALLY APPROACHED BY 4 FELLOW INMATES WHO BEGAN TO ASSAULT AND BATTER HIM. ALTHOUGH PLAINTIFF WAS CLEARLY THE VICTIM OF THIS ASSAULT, AND HEAVILY OUTNUMBERED, DEFENDANTS M. MATIAS, M. PEREZ, AND R. SALGADO (CORRECTIONAL OFFICERS) STOOD BY AND

1 WATCHED AS PLAINTIFF WAS BEING ATTACKED. WHILE
 2 DEFENDANT JOHN DOE # 3 (CORRECTIONAL OFFICER) , AS
 3 THE YARD TOWER OFFICER , SHOT PLAINTIFF IN THE FACE
 4 AND ARM WITH A 37 MM LAUNCHER .

5 FROM THIS INCIDENT PLAINTIFF SUSTAINED SEVERAL
 6 SERIOUS INJURIES WHICH INCLUDED : (1) A RIGHT - SIDED
 7 MAXILLARY ZYGOMATIC BONE FRACTURE , CAUSED BY THE
 8 37MM ; (2) A RIGHT ORBITAL BONE FRACTURE ; AND (3) A
 9 NASAL SEPTUM BONE FRACTURE . PLAINTIFF WAS ASSESSED
 10 AND AMBULATED TO THE LOCAL EMERGENCY DEPARTMENT (ED)
 11 AT NATIVIDAD MEDICAL CENTER IN SOLEDAD CALIFORNIA .
 12 SEE NATIVIDAD MEDICAL CENTER ED PROVIDER REPORT .

13 PLAINTIFF ALSO SUFFERED A BRAIN CONCUSSION WITH
 14 THE LOSS OF CONSCIOUSNESS , AS WELL AS AN LACERATION ,
 15 ALSO CAUSED BY THE 37MM , WHICH REQUIRED SEVERAL
 16 SUTURES TO CLOSE THE WOUND . FOLLOWING THE ABOVE
 17 MEDICAL DIAGNOSES AND PROCEDURE , PLAINTIFF WAS
 18 RELEASED BACK INTO CDCR CUSTODY AND PLACED IN AD-SES
 19 PENDING INVESTIGATION OF THE INCIDENT . SEE CDCR 1140 -
 20 AD-SES UNIT PLACEMENT NOTICE .

21 ON OR ABOUT JULY 23 , 2018 , PLAINTIFF UNDERWENT
 22 SURGICAL OPERATION TO REALIGN THE RIGHT - SIDED
 23 MAXILLARY ZYGOMATIC BONE FRACTURE . THIS SURGICAL
 24 PROCEDURE WAS CONDUCTED BY SALINAS CENTRAL COAST
 25 HEAD AND NECK SURGEONS , INC .

26 ON JULY 26 , 2018 , PLAINTIFF SUBMITTED A CDCR 602 -
 27 INMATE APPEAL / STAFF COMPLAINT ASSERTING CLAIMS
 28 THAT DEFENDANT'S PLACED HIM IN IMMINENT DANGER BY

1 SEE ALSO CDCR 837 -A - INCIDENT REPORT LOG NO. SYSP -FCY -18 -07 -0668 .

1 RELEASING HIM TO FACILITY C WITH NOTED ENEMY
 2 CONCERNS, FAILED TO PREVENT HIS PHYSICAL ASSAULT,
 3 AND FAILED TO PROPERLY INTERVENE ONCE THE ASSAULT
 4 OCCURRED, WHICH RESULTED IN PLAINTIFF SUFFERING
 5 SERIOUS PHYSICAL INJURIES. THIS APPEAL WAS PARTIALLY
 6 GRANTED AND EXHAUSTED TO THE HIGHEST LEVEL OF REVIEW.
 7 SEE COOR APPEAL LOG NO. SVSP-18-04390 / THIRD LEVEL
 8 REVIEW (TLP) CASE NO. 1813196.

9 ON SEPTEMBER 13, 2018, AND ON OR ABOUT JANUARY 25,
 10 2019, PLAINTIFF SUBMITTED TWO SEPARATE COOR 602 -
 11 HEALTH CARE (HC) APPEALS ASSERTING COMPLAINTS OF
 12 IMPROPER MEDICAL TREATMENT REGARDING INEFFECTIVE
 13 MEDICATION FOR CONTINUED PAIN, AND FOR FAILURE TO
 14 PROPERLY FOLLOW UP ON BRAIN CONCUSSION, ARM AND
 15 FACIAL INJURIES. THESE APPEALS WERE REVIEWED BY
 16 DEFENDANT'S K. BROWN (CHIEF EXECUTIVE OFFICER OF APPEAL)
 17 AND S. GATES (CHIEF OFFICER OF APPEAL), WHERE NO
 18 MEDICAL INTERVENTION OCCURRED. SEE COOR HC APPEAL
 19 LOG NOS. KVSP-HC-18001056 AND KVSP-HC-18001056 (HEAD-
 20 QUARTER'S LEVEL RESPONSE.

21 22 LEGAL CLAIMS

23 24 CLAIM ONE (1):

25 ON OR ABOUT JULY 12, 2018, DEFENDANT'S B. HATTON,
 26 V. SOULS AND J. MARTINEZ DID IN FACT VIOLATE
 27 PLAINTIFF'S RIGHT AGAINST CRUEL AND UNUSUAL PUNISH-
 28 MENT, IN THAT DEFENDANT'S FAILED TO PROPERLY ASSESS

1 PLAINTIFF'S ENEMY SITUATION AT SYSP, WHICH RESULTED
 2 IN HIM BEING PHYSICALLY ASSAULTED. U.S. CONST. AMEND.
 3 8. COMPLAINT (CMPT) AT PAGE (PG) NOS. 3. AND 5.

4 CLAIM TWO(2):

5 ON OF ABOUT JULY 12, 2018, DEFENDANT'S A.
 6 QYARZABAL AND J. CERMENO DID IN FACT VIOLATE
 7 PLAINTIFF'S RIGHT AGAINST CRUEL AND UNUSUAL PUNISH-
 8 MENT, IN THAT DEFENDANT'S FAILED TO INTERVENE WITH
 9 PLAINTIFF'S RELEASE AT SYSP UPON KNOWING THAT HE
 10 HAD DOCUMENTED ENEMY SITUATIONS THERE, WHICH
 11 RESULTED IN HIM BEING PHYSICALLY ASSAULTED. U.S.
 12 CONST. AMEND. 8. CMPT AT PG NOS. 4. AND 5.

13 CLAIM THREE(3):

14 ON OF ABOUT JULY 16, 2018, DEFENDANT'S JOHN DOE NOS.
 15 ONE AND TWO DID IN FACT VIOLATE PLAINTIFF'S RIGHT
 16 AGAINST CRUEL AND UNUSUAL PUNISHMENT, IN THAT
 17 DEFENDANT'S UNLAWFULLY ORDERED PLAINTIFF TO GO TO
 18 THE FACILITY YARD WHILE ON ORIENTATION, WHICH
 19 RESULTED IN HIM BEING PHYSICALLY ASSAULTED FROM
 20 LACK OF ESCORT. U.S. CONST. AMEND. 8. CMPT AT PG. NO. 4

21 CLAIM FOUR(4):

22 ON OF ABOUT JULY 16, 2018, DEFENDANT'S M. PEREZ, M.
 23 MATIAS AND F. SAGADO DID IN FACT VIOLATE PLAINTIFF'S
 24 RIGHT AGAINST CRUEL AND UNUSUAL PUNISHMENT, IN
 25 THAT DEFENDANT'S FAILED TO INTERVENE WHEN PLAINTIFF
 26 WAS BEING ASSAULTED, WHICH RESULTED IN HIM SUFFERING
 27 SERIOUS BODILY INJURIES. U.S. CONST. AMEND. 8. CMPT
 28 AT PG NOS. 4 AND 5.

CLAIM FIVE(S):

ON OR ABOUT JULY 16, 2018, DEFENDANT JOHN DOE NO. THREE DID IN FACT VIOLATE PLAINTIFF'S RIGHT AGAINST EXCESSIVE USE OF FORCE AND CRUEL AND UNUSUAL PUNISHMENT, IN THAT DEFENDANT FAILED TO PROPERLY ~~PROTECT PLAINTIFF DURING HIS PHYSICAL ASSAULT BY~~ SHOOTING HIM TWICE DURING THE INCIDENT, RATHER THAN HIS ATTACKERS, WHICH RESULTED IN HIM SUFFERING SERIOUS BODILY INJURIES. U.S. CONST. AMEND. 8. CMPT AT PG NO. 5.

CLAIM SIX(6):

ON OR ABOUT SEPTEMBER 18, 2018, DEFENDANT'S K. BROWN AND S. GATES DID IN FACT VIOLATE PLAINTIFF'S RIGHT AGAINST DELIBERATE INDIFFERENCE, IN THAT DEFENDANT'S DENIED PLAINTIFF INTERVENTION OF INADEQUATE MEDICAL TREATMENT, WHICH RESULTED IN PROLONGED INJURY AND INEFFECTIVE PAIN MEDICATION. U.S. CONST. AMEND. 8. CMPT AT PG NO. 6.

THERE'S ALSO FURTHER ALLEGATION THAT ALL DEFENDANTS, BESIDES K. BROWN AND S. GATES, VIOLATED PLAINTIFF'S RIGHT AGAINST DELIBERATE INDIFFERENCE, IN THAT DEFENDANT'S FAILED TO PREVENT PLAINTIFF'S PHYSICAL ASSAULT BY NOT ACKNOWLEDGING HIS DOCUMENTED ENEMY SITUATION AT SVSP, FACILITY C. COMPLAINT.

RELIEF

PLAINTIFF WILL HEREBY RESPECTFULLY REQUEST THE MONETARY COMPENSATION OF \$250,000 FOR PAIN AND

1 SUFFERING, AND \$25,000 PER DEFENDANT IN PUNITIVE
2 RELIEF, IN THE TOTAL AMOUNT OF \$575,000.

3 PLAINTIFF WILL ALSO DEMAND JURY TRIAL ON ALL ISSUES
4 OF FACT TRIABLE IN THE COURT OF LAW.

5
6 CONCLUSION

7
8 ACCORDINGLY, PLAINTIFF WILL HEREBY SUBMIT THIS
9 FIRST AMENDED COMPLAINT FOR REVIEW AND JUDGMENT.

10
11
12 DATED: 22ND August 2019

RESPECTFULLY SUBMITTED

13 BY: Johnson Joseph

14 JOSEPH JAMAL JOHNSON

15 PRO SE LITIGANT
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STATE OF CALIFORNIA

COUNTY OF KERN

VERIFICATIONC.C.P. SEC. 466 & 2016.5; 28 U.S.C. SEC. 17460

I JOHNSON JOSEPH declare under penalty of perjury that: I am the
PETITIONER in the above entitled action. I have read the foregoing documents and
 know the contents thereof and the same is true of my own knowledge, except as to matters stated therein upon
 information, and belief, and as to those matters, I believe they are true.

Executed this 22nd day of August, 2019, Kern Valley State Prison.

Signature

Johnson Joseph
 DECLARANT/PRISONER

PROOF OF SERVICE BY MAILC.C.P. SEC. 1013(a) & 2016.5; 28 U.S.C. SEC. 1746

I JOHNSON JOSEPH, am a resident of California State Prison, in the County of
 KERN, State of California: I am over the age of eighteen (18) years and am/am not a party of the above entitled
 action. My state prison address is: P.O. Box 5101, Delano, CA. 93216.

On AUGUST 22nd, 2019, I served the foregoing PLAINTIFF'S (First
AMENDED) COMPLAINT #19-CV-02345-SK (PR)
CIVIL RIGHTS ACT 42 U.S.C. § 1983

Set forth exact title of document(s) served

On the party(s) herein by placing a true copy(s) thereof, enclosed in sealed envelope(s) with postage thereof
 fully paid, in the United States Mail, in a deposit box so provided at KERN Valley State Prison, Delano, CA.
 93215.

UNITED STATES DISTRICT COURT "NORTHERN DISTRICT OF
CALIFORNIA" 450 GOLDENGATE AVE SAN FRANCISCO, CA 94102

List parties served

There is delivery service by United States Mail at the place so addressed, and/or there is regular communication
 by mail between the place of mailing and the place so addressed.

I declare under penalty of perjury that the foregoing is true and correct.

DATED:

8/22/19

Johnson Joseph
 DECLARANT/PRISONER

P.O. Box 5101 AZ-124
Delano, CA 93214
19-CV-02345-SK (PR)

Dear Deputy Clerk Melinda K. Lozenski
Greetings. my name is Joseph Johnson # P77735
Im a inmate in (COC) Delano State Prison
Im now refiling my (Plaintiff's first amended
complaint) 19-CV-02345-SK (PR). Im enclosing
one original and one copy. Can you please
endorse file me a copy back for my own
records. Please.

Thank you for your time &
help on this matter.

Joseph Johnson